

WATER COUNCIL MEETING

NH Dept. of Environmental Services
29 Hazen Dr., Concord, N.H.

September 12, 2018
9:05 a.m.

Members present: Councilors: Beaurivage, Boisvert, Gegas, Geisser, Henderson, Joubert O'Brien, and Spaulding

Members absent: Chairman Gilbert Councilors: Butler, Clark, Hardy, Rawnsley and Tremblay

Also present were Carolyn Guerdet, Council Clerk and Paula Scott, Appeals Clerk

Vice Chairman Beaurivage called the meeting to order at 9:05 a.m. Richard Geisser, representing Industrial, introduced himself as our newest member.

1. Approval of Minutes of the May 9, 2018 Meeting

- *Councilor Boisvert made a motion to accept the May 9, 2018 minutes, second by Councilor Henderson. Motion passed unanimously.*

2. Status of Appeals

I. New Appeals

Docket No. 18-09 WC Rae-Ann Melacon and Suzanne Fournier Appeal

Re: June 18, 2018 approval of Alteration of Terrain Permit No. AoT-1437 issued to Leighton A. White, Inc.

Hearing Officer: Not assigned

Status: July 5, 2018 received Notice of Appeal. 7/16/18 issued receipt of Appeal letter. 7/20/18 received Appearance of Biron Bedard and Motion to Intervene. 7/24/18 received Appearance of Christopher Aslin for the department. Council to accept or decline Appeal today, Sept. 12.

See motion in New Business below.

II. Decision and Orders that need to be written finalized and issued.

Docket No. 17-14 WC Suzanne Fournier et al. Appeal

Re: 09/18/17 approval of Alteration of Terrain Permit N. AoT-1313 issued to the Town of Milford

Hearing Officer: David Conley, Esq., assigned on 11/16/17

Recused: Carol Henderson

Status: October 18, 2017 received Notice of Appeal. 10/19/17 issued Receipt of Appeal letter.

10/31/17 received Motion to Intervene from Town of Milford. November 7, 2017 received

Appearance from Atty. Christopher Aslin for the Department. Council accepted Appeal 11/8/17

and Appeal accepted letter issued. 11/21/17 issued Notice of Pre-hearing Conference scheduled for December 11, 2017 at 1 p.m. 11/27/17 received Assented-To Motion to Continue PHC.

11/29/17 issued letter granting Assented-To Motion to Continue PHC to December 19th at 9 a.m.

December 19, 2017 issued Pre-hearing Order scheduling hearing for March 14, 2018 at 9 a.m.

The Appeal will possibly take 2 days. Council decided the 2nd day will be April 11th. February 14, 2018 received State's and Appellants' Witness and Exhibit Lists. March 7, 2018 received

Appellants' Motion to Amend Their Exhibit List. 3/9/18 received Appellants' Statement to Clarify the Record. March 14, 2018 Hearing was held and continued to April 6, 2018 at 9 a.m. April 5, 2018 received Appearance from Atty. Biron Bedard for the Town of Milford. The Continued Hearing was held on April 6, 2018 with Deliberations scheduled for 4/11/18 at 9 a.m. 4/10/18 received Post-Hearing filings as requested by the Hearing Officer. 4/11/18 deliberations were held. Decision to be issued within 90 days. July 17, 2018 issued Decision and Order on Notice of Appeal. 7/20/18 received State's Assented-To Motion to Waive the Deadline for Objection to a Motion for Rehearing. 7/24/18 issued letter granting State's Assented-to Motion to Waive the Deadline. Received the Appellant's Motion for Rehearing on August 14, 2018. 8/20/18 received State's Objection to Motion for Rehearing.

III. Hearings or PHCs Pending

Docket No. 17-06 WC – Town of Hampton, NH, North Hampton Water Commission and Town of North Hampton Appeal

Subject: 03/29/17 Administrative Order No. 17-006 WD issued to Wiggin Way home Owners Association AND Aquarion Water Company of NH, Inc.

Hearing Officer: David Conley, Esq., assigned on 5/17/17

Recused member: Councilor Boisvert

Status: April 28, 2017 received Notice of Appeal. May 1, 2017 issued receipt of Appeal letter. Council accepted the appeal at the May 10, 2017 meeting. 5/11/17 issued Appeal accepted letter. 5/16/17 received Assented-To Motion to Consolidate (Docket No. 17-06 WC and Docket No. 17-07 WC). 5/17/17 received Appearance from Atty. Marcia Brown. 5/18/17 received Motion to Intervene. 5/25/17 issued ruling Granting Motion to Consolidate and Motion to Intervene. December 15, 2017 received State's Motion to Dismiss. January 29, 2018 received Town of North Hampton and North Hampton Water Commission Withdrawal of Appeal. 1/31/18 received Withdrawal of Attorney Stephen Bennett and North Hampton Water Commission's Motion to Reinstate Appeal. February 9, 2018 issued letter granting Motion to Reinstate Appeal regarding North Hampton Water Commission. 2/9/18 received Town of Hampton's Objection to State's Motion to Dismiss. 2/14/18 received Wiggin Way/ Winterberry Home Owners Association's Joinder to State's Motion to Dismiss and received Appearance for Atty. Timothy Harned for the N. Hampton Water Commission and their Objection to State's Motion to Dismiss. 2/28/18 received State's Reply to Town of Hampton's Objection to State's Motion to Dismiss. March 5, 2018 received Surreply in Support of Objection to State's Motion to Dismiss. May 23, 2018 issued Decision and Order denying State's Motion to Dismiss. June 18, 2018 issued Assented to Motion to Postpone 2nd Pre-hearing Conference. July 19, 2018 received Town of Hampton's Assented to Motion to Postpone 2nd Prehearing Conference. 7/19/18 issued letter granting Town of Hampton's Assented To Motion and rescheduling the 2nd Pre-hearing Conference for August 30, 2018 at 9 a.m. in room 110. 7/30/18 received Appearance of Stephen Bennett for North Hampton Water Commission. 8/23/218 received Assented to Motion to Postpone Pre-hearing Conference. 8/24/18 received Withdrawal of Stephen Bennett. 8/27/18 issued letter granting Assented to Motion to Postpone Pre-hearing Conference until September 5, 2018 at 2 p.m. 9/5/18 issued 2nd Pre-hearing Order scheduling a 3rd Pre-hearing Conference for January 22, 2019 at 2 p.m.

IV. Inactive/Status Letter or Pending Settlement/Withdrawal

Docket No. 18-04 WC – Town of Hampton, NH Appeal

Re: 1/17/18 Administrative Order No. 18-001 WD

Hearing Officer: David Conley, Esq., assigned on 4/10/18

Status: February 16, 2018 received Notice of Appeal. 2/21/18 issued receipt of Appeal letter. March 7, 2018 received Appearance from Atty. Maloney. Council accepted appeal on March 14,

2018. April 5, 2018 issued Appeal accepted letter. 4/13/18 issued Pre-hearing Conference notice for May 21, 2018 at 10 a.m. May 21, 2018 received agreement to Hold in Abeyance and issued Pre-hearing Order.

3. New Business

a. Docket No. 18-09 WC Rae-Ann and Suzanne Fournier Appeal

- ***Councilor O'Brien made a motion to accept the Appeal, second by Councilor Boisvert. Motion passed unanimously with Councilor Henderson recusing herself from this Appeal.***

b. Env-Wq 1000 Rules – Rob Tardif, Subsurface Bureau

Rob Tardif reviewed the changes being proposed in these rules. The changes were discussed. There was a questions regarding public input and will these have a public hearing so the industry is aware of? There needs to be discussion with Atty. Hamel. Councilor O'Brien wanted to go on record that there be meaningful effort to engage the industry in advance of JLCAR. Rob will talk to Atty. Hamel to address and clarify and then get back to Councilor Beaurivage or Chairman Gilbert. Discussion then went to design amendments.

- ***Councilor O'Brien made a motion to recommend the department seek the input and comment from stakeholders relative to these proposed changes prior to submitting them to JLCAR, second by Councilor Boisvert. Discussion held to amend to include 'recommend the department' as advisory. Motion passed unanimously.***

4. Old Business

There was a request to have a DES staff briefing of the status of the DWGW trust fund to see where they've been and where they're going. A lot of activity could deserve some input. If they could have any information that could be sent out beforehand it would be helpful. Maybe current meeting minutes and presentations be updated on the website.

It was then noted a hearing officer will be appointed for the appeal that was voted upon and they will set up the necessary pre-hearing conferences.

5. Next Meeting

October 10, 2018 at 9 a.m. Councilors Gegas and Joubert will be gone next month.

6. Adjournment

- ***Councilor Henderson made a motion to adjourn, second by Councilor Joubert. Motion passed unanimously.***

Meeting was adjourned at 9:54 a.m.